

Placed on 1st reading & referred to
HPD 7/19/21; 2nd reading 9/7/21;
Recommended for adoption by HPD 9/7/21

ORDINANCE NO. 26-2021

Bullock, Kepple, Litten, Neff,
BY: O'Malley, Rader, Shachner

AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least two thirds of the members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, authorizing and directing the Director of Planning and Development to enter into an agreement with LakewoodAlive for the sale of 1462 Belle Avenue, pursuant to Section 155.07 of the Codified Ordinances.

WHEREAS, the City is the owner of real property located at 1462 Belle Avenue; and

WHEREAS, the property located at 1462 Belle Avenue was consumed by a house fire in January, 2021 after which the America Zurich Insurance Company, the City's insurance carrier, declared the property a total loss; and

WHEREAS, in an attempt to restore the structure rather than demolish it, the City is seeking to transfer the property to LakewoodAlive to oversee a plan for restoration by a private developer; and

WHEREAS, this Council has determined it is in the best interest of the City to sell said real property and that such sale shall further the interest of the City and its residents; and

WHEREAS, as set forth in Section 2.12 of the Third Amended Charter of the City of Lakewood, this Council by a vote of at least two thirds of its members determines that this ordinance is an emergency measure and that it shall take effect immediately, and that it is necessary for the immediate preservation of the public property, health, and safety and to provide for the usual daily operation of municipal departments in that this property is currently vacant, in a deteriorated condition due to the fire and immediate action is required; now, therefore,

BE IT ORDAINED BY THE CITY OF LAKEWOOD, OHIO:

Section 1. The Director of Planning and Development ("Director") is hereby authorized and directed, on behalf of the City, to enter into a purchase agreement with LakewoodAlive for the sale of 1462 Belle Avenue, in substantially the same form attached as Exhibit "A" and approved by the Law Director, pursuant to Section 155.07 of the Codified Ordinances.

Section 2. The Director shall make no representations or warranties concerning the conditions of the property, including, but not limited to the property's environmental condition, mechanical systems, dry basements, foundations, structural integrity or compliance with code, zoning or building requirements.

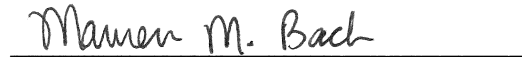
Section 3. The Director is hereby authorized to enter into any and all agreements necessary to execute the sale and transfer of the property.

Section 4. It is found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were adopted in an open meeting of this Council, and that all such deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

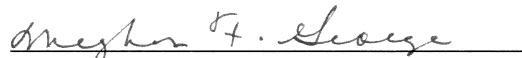
Section 5. This ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare in the City and for the usual daily operation of the City for the reasons set forth and defined in the preamble to this resolution, and provided it receives the affirmative vote of at least two thirds of the members of Council, this ordinance shall take effect and be in force immediately upon adoption by the Council and approval by the Mayor, or otherwise it shall take effect and be in force after the earliest period allowed by law.

Adopted 9/20/2021


Daniel J. O'Malley, President of Council


Maureen M. Bach, Clerk of Council

Approved 9/21/21


Meghan F. George, Mayor

REAL ESTATE PURCHASE AGREEMENT

1. OFFER; ACCEPTANCE. The City of Lakewood ("SELLER"), whose address is 12650 DETROIT AVE, LAKEWOOD, OH 44107 hereby offers and agrees to sell and **LAKEWOODALIVE**, an Ohio nonprofit corporation, ("BUYER"), whose address is 14650 Detroit Ave, #LL40, Lakewood, OH 44107, Lakewood, OH 441072, hereby agrees to buy the property described below.
2. THE PROPERTY. The "Property" shall consist of the parcel of real estate known as the following:
 - 1462 Belle Avenue, Lakewood, Ohio 44107 (permanent parcel number 314-04-044)
 - Further described in Exhibit B, attached. The Property contains multiple structures, and includes all easements and appurtenant rights, and all improvements now situated thereon, in their present condition.
3. PURCHASE PRICE. The Purchase Price shall be **Two dollars (\$2.00)** (the "Purchase Price"), to be paid as follows:

\$2.00 Payable through escrow at closing.
4. CONDITION OF THE PROPERTY.
 - A. SELLER makes no representations or warranties whatsoever concerning the physical or environmental condition of the Property, and except as otherwise set forth herein. BUYER agrees to accept the Property in as-is condition. BUYER affirmatively warrants and represents that it has had the opportunity to fully inspect the Property and is acquiring the Property solely based thereon and not due to any representation, promise, communication, act or omission to act by SELLER, its agents, attorneys, representatives, employees and/or affiliated persons.
 - B. BUYER acknowledges that SELLER is a municipal government, and thus, in some cases, is the last resort for abandoned or distressed properties most of which have been acquired directly through foreclosure or from third parties, banks, lenders (or their respective agents) and/or government sponsored enterprises including government itself. Therefore, SELLER has not lived in and in many cases does not know of the history of the properties it acquires and resells. Hence, to the fullest extent permitted under Ohio law, BUYER waives any property disclosure requirement otherwise afforded by the common law or statutes of Ohio.
5. DAMAGE. Seller shall bear the risk of loss until title transfer. If any portion of the Property is damaged or destroyed prior to Closing, Seller shall promptly notify Buyer of such damage and of the amount of insurance proceeds payable, if any. Buyer shall have the option, to be exercised by notice to Seller not later than 15 days after notice from Seller, to: (a) complete the transaction and receive a credit at Closing equal to the insurance proceeds (if any), or (b) terminate this Agreement.

SELLER Initials _____

Page 1 of 4

BUYER Initials _____

6. TITLE.

- A. SELLER shall furnish a quit claim deed, (the "Deed") conveying to BUYER title to the property, including covenants and restrictions, in the form hereto attached.
- B. BUYER shall, at its option, obtain an ALTA Owner's Policy of Title Insurance in the amount of the Purchase Price (the "Title Policy") issued through a Title Company as designated by BUYER (the "Title Company") insuring title to the Property to be good as of the filing of the Deed for record, subject only to easement, covenants, conditions and restrictions of record and minor encumbrances that do not materially and adversely affect the use of the property. At BUYER's request, and expense, the Title Company shall deliver a Title Commitment to BUYER within 10 days after the date hereof.
- C. BUYER shall take the title to the property subject to the following conditions:
 - 1. BUYER shall identify a willing developer to fully restore the property into a code compliant single-family home and transfer the property to the developer within 90 days of closing.
 - 2. BUYER shall insure that the developer completes all work on the property and that a certificate of occupancy is issued within 365 days of developer taking title to the property. The completion requirement set forth in this Section may be extended by the City in its sole discretion (by and through the approval of the Mayor or Law Director), upon receipt of a written request from the Developer, submitted to the City within 90 days of the completion requirement date, documenting the circumstances causing the Developer to not to satisfy the completion requirement.
 - 3. Developer shall restore the property in accordance with all rules, regulations, and applicable laws.
 - 4. These conditions shall be recorded as deed restrictions on the property and will run with the land. Failure by BUYER or developer to fulfill any condition in a timely manner shall cause the reversion of the property to SELLER.

7. ESCROW. The Escrow Agent for this transaction shall be the Cleveland Home Title, whose address is 2035 Crocker Road, Suite 104, Westlake, Ohio 44145. BUYER shall deliver to the Escrow Agent a copy of this Agreement which shall serve as its escrow instructions for this transaction. The Escrow Agent may accept this escrow subject to its standard conditions of acceptance of escrow; to the extent they are not inconsistent with this Agreement.

8. CLOSING AND DELIVERY OF POSSESSION. All documents and funds shall be placed in escrow in sufficient time to permit transfer of title on the Closing Date (as defined below). The Escrow Agent shall file the Deed for record (the "Closing") and complete this transaction in accordance with the provisions of this Agreement as soon as practical after execution of documents or on such other date as BUYER and SELLER may agree in writing (the "Closing Date"), provided that the Escrow Agent has received all funds and documents required to be deposited with it for the Closing. SELLER shall deliver possession of the Property to BUYER, free of any tenants' possessory rights, on the Closing Date.

9. PRORATIONS, CHARGES AND CREDITS.

SELLER Initials _____

Page 2 of 4

BUYER Initials _____

- A. Real estate taxes, assessments (general and special), and other items shown on the tax duplicate shall be prorated, and SELLER agrees to assume and pay all currently pending and future real estate taxes and assessments for the property, through the Closing Date. SELLER also agrees to assume and pay all pending and future water and sewer charges for the property, through the Closing Date.
- B. All other closing costs shall be divided equally between the parties.

10. DEFAULT; REMEDIES. In the event BUYER fails to comply with or performs as required by this Agreement, resulting in the failure of this Agreement to close as specified in the foregoing Sections, then SELLER shall be entitled to pursue any remedy at law or equity. In the event SELLER fails to comply with or perform as required by this Agreement, resulting in the failure of this Agreement to close as specified in the foregoing Sections, then BUYER shall be entitled to a return of any and all security in this Agreement, and SELLER shall be obligated to pay any actual out of pocket expenses of BUYER in connection with this transaction, but in no event to exceed five thousand dollars (\$5,000).

11. MISCELLANEOUS. Time is of the essence of this Agreement. This Agreement constitutes the entire agreement between the parties. No other conditions, representations, warranties, or agreements, expressed or implied, have been made or relied upon by Buyer or Seller. The representations, warranties, and agreements contained in this Agreement shall survive the transfer of title. This Agreement may not be assigned or transferred by Buyer to any other party without express consent of Seller. This Agreement shall bind and benefit both party's hereto and their respective heirs, personal representatives, successors, and permitted assigns. Buyer and Seller each represent that no real estate broker is owed a commission in connection with the sale of the Property. If "Buyer" consists of more than one individual, the obligations of "Buyer" shall be joint and several.

12. NOTICES. All notices given pursuant to this Agreement shall be communicated in writing, by facsimile or electronic mail, and shall be deemed given upon actual receipt. Notices shall be addressed as follows:

To SELLER: City of Lakewood
12650 Detroit Avenue
Lakewood, Ohio 44107
Attn: Mary Leigh
Telephone: (216) 529-7681
Facsimile: (216) 529-5907
Email: mary.leigh@lakewoodoh.net

To BUYER: LakewoodAlive
Attn: Ian Andrews
Lakewood, Ohio 44107
Telephone: (216) 521-0655
Facsimile:
Email: iandrews@lakewoodalive.org

SELLER:

BUYER:

CITY OF LAKEWOOD

LAKEWOODALIVE

By: _____ By: _____
Shawn Leininger Ian Andrews, Executive Director
Director of Planning and Development

Date: _____, 2021

Date: _____, 2021

ACCEPTANCE BY ESCROW AGENT

The Escrow Agent hereby accepts this Agreement in accordance with Paragraph 7 of this Agreement.

Name (Print): _____

Signature: _____

Title: _____

Date: _____

SELLER Initials _____

Page 4 of 4

BUYER Initials _____